

United States District Court

EASTERN DISTRICT OF TEXAS

SHERMAN DIVISION

FILED

**U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS**

NOV 8 2006

DAVID J. MALAND, CLERK

BY

DEPUTY _____

UNITED STATES OF AMERICA

§

§

vs.

§

Case No. 4:02CR88

§

(Judge Brown/Judge Bush)

MARCUS GAINES PRUITT

§

REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on October 11, 2006 to determine whether the Defendant violated his supervised release. The Defendant was represented by Denise Benson. The Government was represented by Andrew Stover.

On July 1, 2003, the Defendant was sentenced by the Honorable Judge Paul Brown to sixty (60) months imprisonment followed by four (4) years of supervised release after pleading guilty to the offense of Conspiracy-Manufacture, Distribute, Possess Dispense Cocaine Base (Crack)/Marijuana. On February 24, 2006, Defendant completed his period of imprisonment and began service of his supervised term.

On October 5, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender Under Supervision. The petition asserted that the Defendant violated the following conditions: (1) Defendant shall refrain from any unlawful use of a controlled substance and shall submit to one drug test within fifteen (15) days

of release from imprisonment and at least two (2) periodic tests thereafter, as directed by the probation officer; (2) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or paraphernalia related to such substances, except as prescribed by physician; and (3) Defendant shall participate in a program of testing and treatment for drug and alcohol abuse, under the guidance and direction of the U.S. Probation Officer, until such time as the Defendant is released from the program by the probation officer.

The petition alleges that the Defendant committed the following acts: (1) On March 27, April 19, 24 and 25; May 2, 13, 16, 22 and 24; June 7, 8, 12, 14 and 19; July 8 and 12, 2006, the Defendant submitted urine specimens that tested positive for marijuana; (2) Defendant failed to attend drug aftercare counseling at Addiction Recovery Center on April 12 and 26, 2006, as scheduled; and (3) Defendant failed to submit urine specimens as directed on March 25 and June 17, 2006.

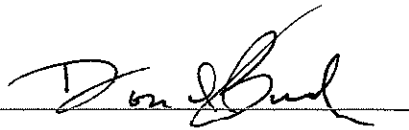
Prior to the Government putting on its case, the Defendant entered a plea of true to the above listed violations. At the hearing, the Court recommended that the Defendant's supervised release be revoked.

RECOMMENDATION

The Court recommends that the District Court revoke Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that

Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of six (6) months, followed by forty-two months (42) of supervised release, and payment of a fine in the amount of \$509.

Signed this 4th of Oct, 2006.


DON D. BUSH
UNITED STATES MAGISTRATE JUDGE